IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6228 OF 2007

Kisan Dagdu Satkar ....Petitioner
V/s
Vishnu Mahadeo Satkar & Ors..... ....Respondents.

Mr.S.S.Salunkhe, Adv. For the petitioner.

CORAM: A.P.DESHPANDE, J.
27/8/07

PC:

The present petitioner is Sarpanch of the village Kanhe whereas the respondents are members of the gram panchayat. The present petitioner moved an application before the Collector under section 14 (1H) of the Bombay Village Panchayat Act seeking disqualification of the respondents on account of nonpayment of taxes. The Collector allowed the application moved by the petitioner and declared that the respondents have incurred disqualification to continue as the members of the gram panchayat. Aggrieved by the order passed by the Collector dated 31.7.07 the respondents filed an appeal before the Commissioner. The Commissioner by the impugned order granted stay to the order passed by the Collector till 8.10.07 with a view to afford an opportunity of hearing to the present petitioner/caveator. Matter is now listed before the Commissioner on 8.10.07.

2. Learned counsel for the petitioner submits that once caveat application is filed the Commissioner had no jurisdiction to grant stay to the impugned order. The submission is that the Commissioner has committed illegality which needs to be interfered with in exercise of writ jurisdiction under article 227 of the Constitution of India. It will not be out of place to mention that an order passed under section 14(1H) of the act is appealable as of right. In case order passed by the Collector is not stayed the same would have resulted in unseating of respondents without permitting them to agitate their case in the appeal before the Commissioner. Though the Commissioner should have heard the petitioner before granting stay that by itself does not warrant interference with the impugned order as the Commissioner proposes to hear the present petitioner/caveator on the next date. The position that has been obtained by grant of stay is to maintain status quo. Refusing interim stay would have resulted in miscarriage of justice on account of unseating of respondents. In the peculiar facts of the present case I do not propose to interfere with the impugned order, moreso, as the Commissioner proposes to hear the present petitioner on the stay application on 8.10.07. Hence writ petition is summarily dismissed.

27.8.07